

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. CANUTO ASINAS ET AL., DEFENDANTS. CANUTO ASINAS AND EUGENIO ASINAS, APPELLANTS.

G.R. No. 29832. March 25, 1929

Ponente: JOHNS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-29832/>

JOHNS, J.:

If the theory of the prosecution is true, it was one of the most foul and brutal murders in the annals of crime, for which no penalty could be too severe. In its, final analysis, the guilt or innocence of the Asinas brothers must largely depend on the evidence of Ogacho, who was at least an accomplice, if not a principal, in the commission of the crime. As a result of an investigation by the Constabulary, Ogacho on October 17, 1927, made and signed the following confession:

"I, Leon Ogacho, of age, resident in the place called Maglolo, within the jurisdiction of the barrio of Tagabiran, municipality of Catubig, Samar, P. I., after being duly sworn, state as follows:

"That on Tuesday evening, 4th day of the month of October, 1927, I was in my house where Felipe Credo came calling for me; when I heard him calling me, I stood up immediately, and went to the window to see. Then Felipe said 'let us go to Canuto because the order given to me is urgent order,' then we went to the house of Canuto. When we arrived at Canuto's house we then went to the house of Aniceto Asinas, and when we arrived at Aniceto's house we found Aniceto sleeping in the hammock, Canuto immediately put out the lamp and held the neck of Aniceto, and Eugenio Asinas held the foot of Aniceto, then Canuto Asinas ordered us to hold one of Aniceto's hands each one of us, while Canuto Asinas was holding Aniceto strongly by the neck and did not loosen him until Aniceto was dead. After Aniceto Asinas, their father, had died, then Canuto Asinas made a bonfire on the ground, when then the fire was already burning, we four lifted the dead body, carried it and placed it on the fire.

"Canuto Asinas is the one who took the money from the baris (a kind of bamboo trunk), the money being kept in a sack. Then after Canuto had taken the money, we immediately went away, and then Canuto told us not to reveal it to anyone, if there is anyone asking about it or investigating, otherwise he would shoot us.

"And he said that our debts to him were not to be paid any more in compensation of our keeping quiet."

At the same time, another and a similar confession was made by the defendant Credo. But for many and different reasons Credo was not called and did not testify as a witness for or against in the trial of the Asinas brothers, and his confession was not used or introduced in that trial. In the trial of the Asinas brothers, the evidence of Ogacho as a witness for the prosecution in the main corroborated his confession.

The body of the deceased Aniceto Asinas was found on the morning of October 5, 1927, in a camarin which he occupied in the sitio of Maglolo, of which the defendant Eugenio Asinas, the son, who was living nearby, was notified, who promptly went to the scene, and the sight moved him to tears. The body was lying face downward, the front part of the body burnt. The deceased did not wear any clothing, except a pair of short drawers which

were also partly burnt. After looking over the body, the son got a blanket and covered it. After telling the people who were assembled, among whom was his wife, to watch over the body of the deceased, he left to notify the authorities in the barrio. The other defendant was also notified and with others, 'including a rural policeman, promptly went to the scene. Upon his arrival, he exclaimed: "God, God, what must have happened to this old man!" And he also broke down and cried.

The crime having been committed in an outlying district, the first and only medical examination or autopsy of the deceased was made by Dr. Juan Rivera five days after the crime was committed, who on October tenth made the following official certificate:

"In view of the foregoing, the undersigned, according to the best of his knowledge and belief, is of opinion that:

"1. There has been a real death, which must have occurred some four days back.

"2. That the corpse belongs to an old man, about 70 or 80 years of age.

"3. That death was caused by asphyxia due to occlusion (closing or shutting up) of the nasal and bucal orifices.

"4. That the burn is only of the first degree stage, and is incapable of causing death except after several days.

"5. That the burn took place while the dead man was unconscious, or in his agony.

"6. That the contusions noted in the face and forehead were produced by blows from a hard object.

"And that it may so appear to whomsoever it may concern, I sign the present certificate at the instance of the justice of the peace of Catubig, Samar, on this 10th day of October, 1927.

(Sgd.)"DR. JUAN RIVERA
"President, Sanitary Division
"Laoang, Samar, P. I."

As a witness for the prosecution, he testified in substance that since 1920 he has been president of the sanitary division comprising Laoang, Palapag, Catubig and Pambujan.

"I examined the body of Aniceto Asinas on October 8, 1927, because the justice of the peace of Catubig telegraphed me to go to Catubig to do so (t. s. n., p. 86). When I examined the corpse, it was in a coffin. I had it taken out of the coffin. (The body was somewhat bent (flexionado) ; the limbs (miembros inferiores) were also flexed, and so with the arms (miembros superiores) ; the fingers were contracted ; the face was swollen (abultada); the tongue was protruding and a little blood was flowing out of the nose and the mouth; the front part of the body was burned and the back part showed cadaveric lividity; on the forehead and on the right cheek there were contusions of about half a peso in size; the parts of the body that were burned were the neck, the breast, the abdomen and parts of the thigh (t. s. n., p. 88). The burning was only slight but towards the border (partes exteriores), it was more or less serious because there blisters (fiictenas) had appeared. Performing an autopsy, I did not find anything extraordinary except in the lungs which were congested. I know it because of the color (t. s. n., p. 39). I think that this congestion was due to asphyxia. I found 'enfisema interstitial o burbujas de aire' in the lungs. The tongue was protruding. This condition must have been caused by strangulation (t. s. n., p. 90). The strangulation must have been caused at the level of the larynx to produce the effect of the tongue hanging out. The strangulation would cause the exclusion of air from the lungs and would cause, as a consequence, the 'enfisema interstitial.' In my opinion, the cause of the death of Aniceto Asinas was asphyxia by strangulation. I think the deceased was between 70 and 80 years old (t. s. n., p. 91).

"On cross-examination, he admits that at least 1/3 of the area of the body of the deceased was burnt, but he

denies that the burns may have caused the death of Aniceto Asinas (t. s. n., p. 93). There were no signs of violence on the neck, the doctor saying that they are not necessary, but he says he found a positive sign of strangulation in the fact that the tongue was protruding (t. s. n., pp. 93-4). As to the two contusions, the blows that caused them could not render the deceased unconscious because on opening the cranium there was no fracture in the same (t. s. n., pp. 96-7). The doctor admits that asphyxia may be caused by accident (t. s. n., p. 98)."

For the prosecution, corporal Marcelo Relampagos testified how and in what manner he obtained the confession of Ogacho.

Visitacion Golondrina, over the strenuous objection of the defendants, testified that in May last, 1927, the defendant brothers tied their father to a papaya tree in the sitio of Maglolo. That she was then in a house about 25 meters distant from the place where it occurred. On cross-examination she could not give the day or the date, and said that there were other houses near the papaya tree.

Nazario Opinion testified that about three years ago Canuto Asinas tried to drown his father in the river in Maglolo. On cross-examination he said that he never told anybody about it until the present trial. He also admitted that he was doing business in the same sitio of Inoman where the defendant Canuto Asinas has a store, and that they were business rivals.

Cirilo Mercader testified that about two years ago in Canuto's house in Inoman, Canuto got hold of his father and wanted to throw him into a pool. He admitted that he was indebted to Canuto Asinas in the sum of P69.

In its analysis of the evidence, the trial court said:

"As may be inferred from the record, the testimony of the principal witness for the prosecution, Leon Ogacho, is corroborated by the following facts and circumstances:

"(a) Actual possession of shotguns on the part of the accused Canuto Asinas and Eugenio Asinas;

"(b) The result of the examination or autopsy of the body of the deceased made by the health officer Dr. Juan Rivera;

"(c) The admission on the part of the accused Canuto Asinas that he had really ordered Leon Ogacho and Felipe Credo to thresh abaca in the plantation of Uy Dinto in the sitio of Himaanion;

"(d) Actual existence of enmity between the deceased and the mother of the accused Asinas;

"(e) The fact that on three previous occasions the accused Canuto Asinas, once together with the accused Eugenio Asinas, had attempted or done violence on the body of the deceased;

"(f) The fact that the two brothers Canuto and Eugenio had shown cold indifference and lack of any warm manifestation of filial regard or affection for the deceased upon learning the death of their father, especially the former who, upon receiving the news, did not go to the place unless accompanied by an old man and a rural policeman."

It is elementary law that a defendant in a criminal action cannot be convicted on the evidence of an accomplice only, and that to sustain such a conviction, there must be other evidence corroborating that of the accomplice, which tends to show the guilt of the defendant. It may well be doubted whether any one of the six facts or circumstances relied upon by the lower court, as corroborating evidence, are legally sufficient for that purpose, (a) The actual possession of shotguns by the defendants is not evidence of their guilt, for the simple reason that the deceased was not killed with a shotgun, and it appears that each of them had a license for possession of the shotguns. Neither is (b) the result of the medical examination any evidence of their guilt. The same thing is true as

to (c) and (d). As to (e) that evidence was admitted over the strenuous objection of the defendants and was flatly contradicted and it is admitted that no complaint was ever made, and that nothing was ever said or done about any of such matters until after the defendants were arrested on the present charge. It must be conceded that such evidence is not clear or convincing.

Upon the question of the admissibility of evidence as to the commission of other crimes as tending to prove the guilt of the defendants of the crime in question, Ruling Case Law (vol. 10, sec. 109), says:

"The general rule is that evidence is not admissible which shows, or tends to show, that the accused in a criminal case has committed a crime wholly independent of the offense for which he is on trial. It is not competent to prove that he committed other crimes of a like nature for the purpose of showing that he would be likely to commit the crime charged in the indictment. A man may be a notorious criminal, but this fact may not be shown to influence a jury in passing upon the question of his guilt or innocence of the particular offense for which he is on trial. A man may have committed many crimes, and still be innocent of the crime charged in the case on trial. To permit proof of other crimes would naturally predispose the minds of the jurors against the defendant. One who commits one crime may be more likely to commit another; yet, logically, one crime does not prove another, nor tend to prove another, unless there is such a relation between them that proof of one tends to prove the other. Unless such a relation exists, it is illegal and manifestly unfair to require a man, who is charged with a specific crime in the indictment, to prepare a defense against other crimes that the state may attempt to prove against him, but which are not charged in the indictment. The general rule should, therefore, be strictly enforced in all cases where applicable."

That is good law, and the only theory upon which the testimony of Visitacion Golondrina, Nazario Opinion and Cirilo Mercader is admissible is that the relation as to the matters about which they testified tends to prove the commission of the crime in the manner in which it was committed, and unless there is such a relation, their evidence is illegal and manifestly unfair to the defendants. As stated we very much doubt the truth of the testimony of those witnesses, and we have a serious doubt about the admissibility of their evidence for any purpose. As to (/) in which the lower court says that the defendants were cold and indifferent and did not aid or assist in the investigation, that finding is not sustained by the record. Hence, in the final analysis, the evidence of the accomplice Ogacho is not corroborated in a manner which tends to prove the guilt of the defendants.

In this case, if the defendants are guilty, the death penalty should be imposed. There is not and cannot be any compromise. They are either guilty as charged or they are innocent, and it devolved upon the prosecution to prove their guilt beyond a reasonable doubt, and there are some features about Ogacho's testimony that make it very hard to believe that his story is true.

It is conceded that the defendants are men of affairs, ordinary intelligence and of substantial means. If it be a fact that they formed a design to take the life of their own father, they could very easily have done that without the aid or assistance of Ogacho or Credo, and there is no valid reason why they should ever be called to assist in the commission of the crime. By his own statement, Ogacho never did anything more than to trail along the heels of his master through the dark and stormy night to the scene of the crime until after the father had been strangled to death by his own son, and the four of them took his body and placed it on the fire which had been built for that purpose. The evidence shows that the father was between 70 and 80 years old, and that for five years he had lived alone in the ca/mann. The point is that, if the defendant brothers had really conspired to commit the crime, as Ogacho says, why and for what purpose would they call to their aid and assistance two irresponsible men like Ogacho and Credo? They could easily commit the crime without them, and Ogacho's own evidence shows that his services were of no value to the Asinas brothers in the commission of the crime. Again, it was committed on the night of October 4th.

It appears from the almanac of that date, that the moon was then in its first quarter, and the evidence shows that it

was a rainy, stormy night, and yet Ogacho said that the very first thing which they did on entering the room of the deceased was to put out the light which was burning low. The crime was committed in the camarin, and without any light and in the very nature of things, everything must have been dark, and yet in this situation Ogacho testified that immediately after the light was put out, Oanuto Asinas held his father's neck, and that Eugenio held his feet, and that Canuto told me to hold one of his hands, and that Canuto did not loosen his hold upon the neck until Aniceto was dead, and that during all of this time, Aniceto trembled.

Upon Ogacho's own testimony, the father must have died from strangulation, yet the autopsy did not reveal, and there is no claim or pretense, that there were any marks of violence found on the neck of the deceased.

Upon that question, Taylor, Principles and Practice of Medical Jurisprudence (vol. 1, p. 729), says:

* * * In the absence of all marks of violence around the neck, we should be cautious in giving an opinion which may affect the life of an accused party; for it is not probable that homicidal strangulation could be accomplished without the production of some appearances of violence on the skin over the larynx or windpipe. It is doubtful whether strangulation can ever take place without some mark being found on the neck indicative of the means used. The bare possibility of death being caused in this manner, without leaving any appreciable trace of violence, must be admitted; although the admission scarcely applies to those cases which require medico-legal investigation. Suicides and murderers generally employ much more violence than is necessary for the purpose of destruction. But if a soft and elastic band were applied to the neck with a gradually regulated force, it is possible that a person might die strangled without any external sign being discovered to indicate the manner of his death. * * *

"The state of the countenance alone will scarcely warrant the expression of an opinion, for there are many kinds of death in which the features may become livid and distorted from causes totally unconnected with the application of external violence to the throat, unless accompanied by other wellmarked signs of this mode of death. So again, the eyes and tongue may be protruded as a result of putrefactive changes."

If the deceased died from strangulation, as Ogacho testified, it is hard to conceive that there would not have been some evidence of the strangulation on the neck, and yet no one claims to ever have seen or found any such marks of violence. As stated a most brutal and atrocious murder has been committed, and some one is guilty of a very serious crime. But the question before us is the guilt or innocence of the defendants, and we cannot say as a matter of law, as we analyze the evidence for the prosecution, that it is sufficient to prove the guilt of the defendants beyond a reasonable doubt. It is far better to acquit a man of such a serious crime upon the ground that the evidence is not sufficient to prove his guilt, even though he may be guilty, than to invoke the death penalty upon a man who may be innocent. The defendants stoutly maintain their innocence, and there is nothing inconsistent or unreasonable in their testimony. The evidence shows that the day before the crime was committed, the defendant Canuto and his father met and had friendly dealings with each other, and that Canuto left his work to assist his father to catch his carabaos and put rings in their noses.

The trial court found that the motive for the crime was robbery, but upon that point the evidence is not clear or convincing, and is more or less of conjecture and speculation. Much more could be said about the evidence for the prosecution, but giving the defendants the benefit of a reasonable doubt, as we must, in the final analysis, the proof is not sufficient to sustain a conviction.

The judgment of the lower court is reversed, and the defendants, Canuto Asinas and Eugenio Asinas, are acquitted of the crime charged, with costs de oficio. So ordered.

Johnson, Street, Malcolm, Ostrand, Romualdez, and Villa-Real, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.